



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

July 14, 2011

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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains a report on ABX1 26 and ABX1 27, the Redevelopment Trailer Bills, signed by the Governor as part of the FY 2011-12 State Budget Act.

Overview

On June 28, 2011, Governor Brown signed ABX1 26 and ABX1 27, the FY 2011-12 two-bill redevelopment trailer bill package, which eliminates Redevelopment Agencies (RDAs) unless cities and counties elect to participate in the Alternative Voluntary Redevelopment Program and provide a \$1.7 billion in State General Fund savings in FY 2011-12. As reported in the July 5, 2011 Sacramento Update, ABX1 26 enacts the framework to dissolve RDAs and ABX1 27 creates the Alternative Voluntary Redevelopment Program, which allows an RDA to continue to exist and carry out redevelopment activities if the city or county elects to participate in the program and makes voluntary payments to the county auditor-controller primarily to fund schools.

The California Redevelopment Association (CRA) and League of California Cities (League) have indicated their intent to file a lawsuit in the California Supreme Court to challenge the constitutionality of ABX1 26 and ABX1 27, primarily on the grounds that the enacted legislation violates Proposition 22 of 2010 and other provisions of the California Constitution. Proposition 22 prohibits the State from taking, borrowing, or restricting the use of tax revenues dedicated by law to fund transportation, redevelopment or local government services. According to the CRA and the League,

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the legal action being prepared will also seek an immediate stay to suspend the dissolution of RDAs, which would allow them to continue operation without interruption, pending a decision on the merits of the case. However, a stay would likely suspend the time for making voluntary payments, which would create an issue for the State, as the legislation accounts for \$1.7 billion in State General Fund savings in the FY 2011-12 State Budget Act. If the legislation is upheld against anticipated constitutional challenge, the combined effect of the two bills significantly modifies Community Redevelopment Law (CRL) and could fundamentally alter the future of redevelopment in California.

Currently, most new redevelopment activity is suspended. However, at this point, there are still many unresolved issues and uncertainty. County Counsel indicates that it would be unlikely that RDAs can secure bond financing until any pending legal issues are settled. According to County Counsel, based on the two-bill structure, it is doubtful that many RDAs will choose to be dissolved pursuant to ABX1 26. In addition, County Counsel surmises that most RDAs will declare that they will make the voluntary payments consistent with ABX1 27 by November 1, 2011. The first remittance payment by participating RDAs is due on January 15, 2012. If the payment is not made, then the RDA would revert to the dissolution pursuant to ABX1 26, with no foreseeable penalty. **Should RDAs continue in existence under ABX1 27, the County would not benefit, and could even be harmed if RDAs are successful in seeking project extensions. The Chief Executive Office is working with County Counsel and the Auditor-Controller to assess the changes to Community Redevelopment Law and determine the potential fiscal impacts and identify possible implementation issues.**

Major provisions of the two-bill redevelopment package of interest to the County are summarized below.

ABX1 26 – Phase-out of Redevelopment Agencies

ABX1 26 dissolves RDAs and community redevelopment commissions, prohibits the creation of new RDA obligations or debts, retires existing RDA indebtedness, creates and establishes the duties of Successor Agencies and Oversight Boards, and imposes requirements on county auditor-controllers. The restrictions on RDA operations are intended to preserve the revenues and assets of RDAs in order that those resources not needed to pay enforceable obligations may be available for use by local governments to fund core governmental services. ABX1 26 also allows a community development commission to retain its authority in its capacity as a housing authority or for any other community development non-redevelopment purpose. However, unused balances in the Low and Moderate Income Housing Fund would be transferred to the Successor

Agency and dispersed to the local taxing entities. These provisions affect RDAs that elect not to participate in the Alternative Voluntary Redevelopment Program. Specifically, ABX1 26:

- Immediately suspends and prohibits most redevelopment activities, including incurring new obligations or expanding debt;
- Dissolves all RDAs effective October 1, 2011;
- Requires RDAs to continue to make all scheduled payments for enforceable obligations;
- Requires RDAs to prepare a preliminary draft of an initial Enforceable Obligation Payment Schedule by September 30, 2011 and provide it to Successor Agencies;
- Requires Successor Agencies to create and administer a Redevelopment Obligation Retirement Fund;
- Requires a county auditor-controller to create and administer a Redevelopment Property Tax Trust Fund for property tax revenues related to the each former RDA;
- Requires a county auditor-controller to complete a financial audit of each RDA in the county by March 1, 2012 and provide a copy of all audits to the State Controller by March 15, 2012;
- Requires a county auditor-controller to report sums of property tax revenues as specified to the State Controller and the Department of Finance by October 1, 2012;
- Requires unencumbered RDA funds be conveyed to the county auditor-controller for distribution to local taxing entities, including cities, counties, a city and county, school districts and special districts;
- Requires the California Law Revision Commission to draft a CRL cleanup bill for consideration by the Legislature by January 1, 2013; and
- Appropriates \$500,000 to the Department of Finance for administrative costs.

Successor Agencies

ABX1 26 establishes Successor Agencies and subjects Successor Agency actions to the review of Oversight Boards. Successor Agencies are defined to mean the county, city, or county and city that authorized the creation of each RDA. Successor Agencies are required to: 1) continue to make payments for enforceable obligations using property tax revenues; 2) prepare a draft Recognized Obligation Payment Schedule by November 1, 2011 and have it certified by an external auditor and approved by the Oversight Board; 3) submit the approved Recognized Obligation Payment Schedule to the county auditor-controller, the State Controller and the Department of Finance and to post it on the successor agency's Internet Web site; 4) beginning on January 1, 2012,

only make payments listed in the Recognized Obligation Payment Schedule; 5) continue to oversee the development of properties until the contracted work is completed; 6) provide the Oversight Board a proposed administrative budget which limits Successor Agency annual administrative expenses to five percent of the property tax in FY 2011-12, and three percent thereafter; and 7) expeditiously wind down the affairs of RDAs.

Oversight Boards

ABX1 26 establishes Oversight Boards to approve and direct the actions of the Successor Agencies. The designation of a seven-member Oversight Board is required for each Successor Agency, which would generally consist of one member appointed by the: 1) county board of supervisors; 2) mayor of the city that formed the RDA; 3) largest special district, as specified; 4) county superintendent of education; 5) Chancellor of the California Community Colleges; 6) county board of supervisors to represent a member of the public; and 7) mayor or the chair of the board of supervisors from the largest representative employee organization of the former RDA. Oversight Board actions are subject to the review of the Department of Finance.

ABX1 27 – Alternative Voluntary Redevelopment Program

ABX1 27 creates the Alternative Voluntary Redevelopment Program in which an existing RDA would be allowed to continue to exist under certain circumstances. ABX1 27 establishes the requirements of city or county that elects to participate in the program and sets the calculation of the voluntary payments required to be made by participating cities and counties to the county auditor-controller for deposit into a Special District Allocation Fund and into a county Educational Revenue Augmentation Fund. The required amount of payment is based on the RDA's proportionate share of statewide net tax increment, calculated as an average of gross allocations and allocations net of pass-through obligations. A city or county may use any available funds not otherwise obligated to make payments to the county auditor-controller. In particular, a city or county electing the payment could enter into an agreement with its RDA whereby the RDA would transfer a portion of its tax increment, not to exceed the required annual remittance, to the sponsor city or county, thus offsetting the payment. If a city or county fails to make the voluntary payment required, the RDA becomes immediately subject to ABX1 26. These provisions affect cities and counties that elect to participate and maintain compliance in the Alternative Voluntary Redevelopment Program. Specifically, ABX1 27:

- Allows an RDA to continue to exist and carry out the provisions of CRL upon the enactment of an ordinance by a city or county and notification to the county

auditor-controller, State Controller and Department of Finance by November 1, 2011;

- Requires that a city or county agree to remit revenues to school entities and special districts as a precondition to continue redevelopment;
- Establishes the calculation for payments in FY 2011-12;
- Establishes the calculation for payments in FY 2012-13 and thereafter;
- Allows a participating city or county to enter into an agreement with the RDA to transfer a portion of its tax increment to finance certain redevelopment activities within a redevelopment area;
- Exempts the RDA of a city or county which makes the required payments from making the full allocation to its affordable housing fund (in FY 2011-12 only);
- Requires various administrative activities to be carried out by the Department of Finance and the county auditor-controller;
- Allows the county auditor-controller to charge a city or county a fee that does not exceed the reasonable costs to implement this measure; and
- Appropriates \$500,000 to the Department of Finance to comply with these provisions.

Potential County Impact

The Chief Executive Office (CEO) Operations Cluster indicates that there are currently 71 RDAs operating 315 redevelopment project areas within the County. The CEO estimates that the County represents 25.0 percent of the statewide RDAs and the County's General Fund current share of property tax revenue is approximately 29.0 to 40.0 percent. **The County's current loss to community redevelopment agencies (net of pass-through payments) is approximately \$530.8 million, including \$452.7 million to the County General Fund; \$51.3 million to the Fire District; \$18.3 million to Flood Districts; and \$8.5 million to the Public Library District.** In general, the diversion of tax increment from RDAs to the local taxing entities should RDAs dissolve according to ABX1 26 would significantly benefit the County General Fund, Fire, Flood and Public Library Districts.

County Counsel indicates that although the enacted legislation does not increase existing project caps or extend the time to divert tax increment of redevelopment projects which participate in the Alternate Voluntary Redevelopment Program, approval of extensions for RDAs was reportedly promised by Senate President Pro-Tem Darrell Steinberg when these bills were debated on the Senate Floor. **The CEO Operations Cluster and County Counsel indicate that any such extensions would have a significant negative fiscal impact on the County and other local taxing entities.** According to County Counsel, the validity of project extensions pursuant to ABX4 26 of 2009 is currently under legal challenge (Genest case). ABX4 26 of 2009

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requires RDAs to make payments into the Supplemental Educational Revenue Augmentation Fund (SERAF), but also allowed the RDAs to extend projects by one year, essentially to compensate them for the SERAF payments.

The Community Development Commission (CDC) indicates that ABX1 26 would allow the CDC to retain its authority to continue the administration and operation of non-redevelopment programs. CDC also indicates that ABX1 27 would allow RDAs to escape dissolution pursuant to ABX1 26, if they perform certain tasks and agree to make specified payments to stabilize schools funding in communities. **According to CDC, initial estimates indicate that the CDC could face a possible \$1.86 million payment in FY 2011-12 and \$437,000 in FY 2012-13 and in all subsequent years.**

We will continue to keep you advised.

WTF:RA
MR:LY:er

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants